THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 20731 of 2007

Date:01-10-2007

Between:

Oddepalli Durgaiah

...

Petitioner

AND

The State of A.P. rep. By its Tahsildar, Karimnagar and another

..

Respondents

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ORDER:

The petitioner seeks a writ of mandamus to declare the action of the first respondent in issuing impugned order bearing No. B/401/2007-47, dated 31.08.2007, as illegal and arbitrary.

It is the case of the petitioner that his father Yellaiah was assigned land of an extent of Ac.02.05 guntas in Sy.No.177 situated at Rekurthi village, Karimnagar mandal in the year 1961 and the said land was allotted for the purpose of agriculture but not any other purpose. It is stated that the said land has been used other than the agriculture by making it into plots and accordingly, a notice-dated 01.04.2007 was issued to the petitioner.

Learned counsel appearing for the petitioner submits that an explanation was submitted by the petitioner to the first respondent on 14.02.2007, but without considering the said explanation, the second respondent passed the impugned order, dated 31.08.2007 resuming the land on the ground of violating Section 3(1) of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977.

The learned Government Pleader for the respondents submits that admittedly a show cause notice, dated 01.04.2007 has been issued to the petitioner, but in the explanation given by the petitioner, the reference given is dated 20.01.2007 and therefore, it may not be correct to state that the petitioner has submitted his explanation.

I am not inclined to express any opinion as to whether any explanation has been submitted by the petitioner or not.

Admittedly, the impugned order passed by the first respondent is an appeallable order and the appeal lies under Section 4-A of the

A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 to the Revenue Divisional Officer.

Accordingly, the writ petition is disposed of permitting the petitioner to file an appeal against the impugned order, dated 31.08.2007 passed by the first respondent in Proceedings No.B/401/2007-47 before the Revenue Divisional Officer, Karimnagar within ten days from the date of receipt of a copy of this order. On filing such appeal by the petitioner, the Revenue Divisional Officer, Karimnagar shall direct the parties to maintain status-quo obtaining as on that day pending disposal of the appeal and if no appeal is filed, it is open for the respondents to take appropriate action to resume the land. No costs.

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V.ESWARAIAH, J.

Date:01.10.2007
ccm

Note:
Furnish C.C. within three days.
B/O
ccm